

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FC Online Marketing, Inc.
Plaintiff,

v.

Burke's Martial Arts, LLC,
John Jacob Burke,
Defendants.

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUN 11 2014 ★

Case No.:

LONG ISLAND OFFICE

CV - 14 3685

FEUERSTEIN, J

ORIGINAL COMPLAINT

WALL, M.J.

Comes now Plaintiff FC Online Marketing, Inc. ("FCOM") with its Complaint against Burke's Martial Arts, LLC, ("BMAL") and John Jacob Burke ("Burke") (collectively "Defendants") and states as follows:

INTRODUCTION

1. This is an action for Copyright Infringement under the United States Copyright Act of 1976, 17 U.S.C §§ 101 et seq. (the "Copyright Act"), for Trademark Infringement under 15 U.S.C. §§ 1114, 1125 et seq. (the "Lanham Act"), for Cybersquatting under 15 U.S.C. § 1125(d), and for Unfair Competition under 15 U.S.C. § 1125 (a).

2. Additionally, as there is no adequate remedy in law, this is an action to preliminarily and permanently enjoin the reproduction, publication, advertisement, distribution or other dissemination of the domain name ILove2Kickbox.com ("Infringing Domain Name") and related trademark used on said Infringing Domain Name, created for or by the Defendants, and published on the Internet at said Infringing Domain Name, on the grounds that it is

confusingly similar to FCOM's trademark. It is also an action to preliminarily and permanently enjoin the further reproduction, distribution, and display of Defendants' website located on the Internet at said Infringing Domain Name, on the grounds that it violates FCOM's copyright, and to preliminarily and permanently enjoin the unfair competition that Defendants have engaged in.

PARTIES, JURISDICTION, AND VENUE

3. Plaintiff FCOM is a corporation that provides website design, search engine optimization, lead generation and other online marketing services and products to its weight loss through fitness licensees and franchisees, and who is domiciled in the State of New York, having its principal place of business in Nassau County, 3601 Hempstead Turnpike, Suite 503, Levittown, New York 11756.

4. Upon information and belief, Defendant BMAL is a State of Rhode Island Limited Liability Corporation that describes itself as providing "kickboxing classes for Rhode Island men and women who are falling in love with America's hottest new exercise that lets you lose weight and melt fat faster than they ever thought possible," with its principal place of business located in Providence County, 530 Wellington Avenue, Cranston, Rhode Island 02910.

5. Upon information and belief, Defendant John Jacob Burke is that Managing Member of BMAL and a resident of the state of Rhode Island having his principal place of residence at 512 Wellington Ave. Cranston, Rhode Island 02910.

6. Upon information and belief, at all times material hereto, Defendants operated through the acts of its employees, agents, representatives, servants, and the like, acting within their course of employment and scope of duties.

7. This court has jurisdiction over the subject matter of the Complaint for the Copyright Count pursuant to 28 U.S.C. 1331 (federal question) and pursuant to the Copyright

Act under 28 U.S.C. 1338(a) (copyrights) and 17 U.S.C. § 502 (copyright injunctive relief), and over the Unfair Competition Count under 28 U.S.C. § 1338(b) and 15 U.S.C. § 1116 (unfair competition injunctive relief), and over the Trademark Infringement Count under 28 U.S.C. § 1338(a) (trademarks) and 15 U.S.C. § 1116 (trademarks injunctive relief), and the Cybersquatting Count under 28 U.S.C. § 1338 (a) and 15 U.S.C. § 1116 (cybersquatting injunctive relief).

8. This Court has personal jurisdiction over Defendants because Defendants' tortious acts of Copyright Infringement, Trademark Infringement, Cybersquatting and Unfair Competition all occurred either directly or indirectly within this jurisdiction, and elsewhere in the State of New York as well as throughout the United States, and/or were specifically targeted at this jurisdiction where the intellectual property was created, is stored and the subject of the action. Defendants knew, or should have known, that their acts of Copyright Infringement, Trademark Infringement, Cybersquatting and Unfair Competition targeted this jurisdiction and/or would have a direct impact on persons or entities located in this jurisdiction. Further, until recently, Defendants have transacted business within this jurisdiction.

9. Venue is proper in this judicial district pursuant to 28 U.S.C 1391 (a) and (b), because Defendants are subject to personal jurisdiction in this judicial district and a substantial part of the events or omissions giving rise to the claims occurred in this judicial district.

COPYRIGHT INFRINGEMENT

10. FCOM owns a website entitled I Love Kickboxing Carle Place, located on the internet at www.ilovekickboxingcarleplace.com (hereinafter referred to as "Website").

11. The Website is an original work which is copyrightable under Title 17 of the U.S.C to wit, the Copyright Act of 1976 as amended.

12. The Website contains “protectable elements” afforded copyright protection, said elements include, but are not limited to, the unique written content, images, graphics, and the unique expressions set forth in the Website.

13. FCOM, as the author of the Website, duly applied to the Library of Congress Copyright Office, and received a Certificate of Registration for the Website. *See Exhibit A*, Website U.S. Copyright registration, attached hereto and incorporated herein by reference.¹

14. FCOM is the sole owner of the Website’s copyright.

15. Subsequent to the issuance of the Website’s copyright certificate, Defendants infringed upon FCOM’s copyright by adapting FCOM’s Website content (“the Work”) and releasing said adaptation (“Infringing Content”) on its company website, located on the Internet at the Infringing Domain Name. *See Exhibit B*, Defendant’s Infringing Content, taken from ILovekickboxing.com.

16. FCOM became aware of Defendants’ use of the Infringing Content on or about June 2, 2014.

17. On June 2, 2014 FCOM, via counsel, sent Defendants a first notification of copyright infringement. *See Exhibit C*, first copyright infringement notification. On this same day, FCOM sent Defendants’ Internet hosting provider (“GoDaddy”), a Digital Millennium Copyright Act (“DMCA”) “takedown notification” under 17 U.S.C. Section 512(c)(3) and 512(d)(3). *See Exhibit D*, DMCA takedown notification.

18. On June 3, 2014 GoDaddy responded that it had “suspended” Defendants’ website located on the Internet at ILove2Kickbox.com. *See Exhibit E*, GoDaddy’s response to

¹ All exhibits are attached hereto and incorporated herein by reference.

DMCA takedown.

TRADEMARK INFRINGEMENT

19. FCOM owns the trademark ILoveKickboxing.com (hereinafter referred to as “the Mark” or “Mark”). Michael Parrella (“Parrella”), CEO of FCOM, and the driving force behind the Mark, is a top gun fitness consultant and thought leader. Parrella has frequently been a featured speaker at the annual Martial Arts Industry Association (“MAIA”) convention, and has been voted either top MAIA speaker or, in the top group of MAIA speakers, every year attended. The MAIA is the industry’s leading martial arts business consulting organization. Parrella’s notoriety stems in part from running FCOM’s iLoveKickboxing.com fitness franchise (“ILKB”). ILKB has generated over 100,000 enrollments for schools around the world in its first two years of operation. Parrella has logged thousands of hours supporting the ILKB brand and promoting the Mark worldwide, including developing and implementing mastermind coaching programs that have helped school owners leverage the same Internet marketing techniques that propelled FCOM’s rise to prominence in the fitness industry.

20. The Mark is registered and protected under Title 15 of the U.S.C. §§ 1114, 1125 et seq. FCOM duly applied to the United States Patent and Trademark Office (“USPTO”) and received a trademark registration for “ILoveKickboxing.com.” See Exhibit F, FCOM’s USPTO trademark abstract. FCOM is the sole owner of the Mark.

21. FCOM has used the Mark in commerce on, and in connection with, the sale of its services on hundreds of websites (“the Works” or “Works”) that bear the Mark. See Exhibit G, Example of FCOM’s websites bearing the Mark. FCOM has spent hundreds of thousands of dollars advertising and promoting the Mark, as well as FCOM’s Works bearing the Mark. FCOM has built, and owns, valuable and substantial goodwill symbolized by the Mark.

22. FCOM's Mark is unique and distinctive and, as such, designates a single source of origin.

23. Subsequent to the Mark's registration, Defendants infringed upon FCOM's Mark by registering a domain name ("ILove2Kickbox.com") strikingly and confusingly similar to FCOM's ILoveKickboxing.com Mark and adopting a confusingly similar trademark, releasing said adaptation ("Infringing Mark") on its company website, located at ILove2Kickbox.com. See Exhibit H, Defendants' Infringing Mark taken from ILove2Kickbox.com.

24. FCOM became aware of Defendants' use of the Infringing Mark on or about June 2, 2014.

25. On or about June 3, 2014 FCOM, via counsel, notified Defendants that Defendants had infringed on its Mark. See Exhibit I, First notification of trademark infringement.

26. On or about June 3, 2014 Defendant Burke spoke with FCOM's counsel. Defendant Burke denied all allegations of copyright infringement and trademark infringement. The parties, through a phone conversation and email correspondence, have been unable to resolve the dispute amicably.

27. FCOM never entered into any agreement with Defendants that would permit Defendants to adapt or otherwise use the Work or the Mark; therefore, Defendants possess no rights whatsoever in the Work or the Mark, including any of the exclusive rights owned by FCOM under the Copyright Act and Lanham Act.

CYBERSQUATTING

28. FCOM's Mark is widely known and recognized among consumers and members of the fitness industry.

29. Defendants knew of FCOM's Mark prior to registering the Infringing Mark on

GoDaddy because Defendants were former FCOM licensees. *See Exhibit K*, Defendants' business relationship with FCOM; *see also Exhibit L*, Defendants' GoDaddy registration information.

30. Defendants registered the Infringing Mark ("ILove2Kickbox.com") and used it as Defendants' trademark and domain name, a trademark and domain name ("Infringing Domain Name") which is confusingly similar to the domain name that bears FCOM's distinctive Mark ("ILoveKickboxing.com").

31. FCOM, upon information and belief, alleges that Defendants used the Infringing Mark to divert Internet traffic, and therefore revenue, from users searching for FCOM's well-known fitness Mark, to the Infringing Domain Name.

32. FCOM, upon information and belief, alleges that Defendants' Infringing Domain Name features goods or services that are directly competitive with those sold or provided in connection with FCOM's distinctive Mark.

33. FCOM, upon information and belief, alleges that Defendants' unauthorized registration of the Infringing Domain Name creates a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Infringing Domain Name, and is likely to falsely suggest a sponsorship, connection, license, or association of Defendants, and the Infringing Domain Name, with FCOM.

34. FCOM, upon information and belief, alleges that Defendants' conduct has irreparably harmed, and if not enjoined, will continue to irreparably harm the general public who has an inherent interest in being free from confusion, mistake, and deception.

UNFAIR COMPETITION

35. Defendants' conduct, as described herein, constitutes unfair competition under the Lanham Act by, *inter alia*, directing search engine results toward an unauthorized and Infringing Domain Name and away from FCOM's website and Works, which bear FCOM's distinctive Mark.

Count I – Copyright Infringement **[Copyright Infringement 17 U.S.C. § 501(a)]**

36. FCOM incorporates by reference all the allegations set forth in ¶¶ 1-35 as if fully set forth herein.

37. FCOM is the rightful owner of all rights related to the Work and, pursuant to 17 U.S.C. § 102(a), owns a copyright in same, for which an application for registration has been made and a certification issued.

38. Defendants, by using FCOM's Work for their own economic gain without a contractual agreement with FCOM— unlawfully reproduced the Work, unlawfully distributed the Work, unlawfully displayed the Work, and unlawfully created a derivative version of the Work, in violation of FCOM's enumerated rights contained in the Copyright Act. *See generally* 17 U.S.C. §§ 106 and 501.

39. Upon information and belief, Defendants' acts of copyright infringement were willful and deliberate, in reckless disregard of FCOM's copyright, and intended for its own economic gain, without consideration for processes and safeguards that would have protected the rights of copyright holders. *See* 17 U.S.C. § 504(c)(2).

40. As a direct and proximate result thereof, FCOM has been injured, in an amount presently unknown and to be determined at time of trial, by reason of Defendants' intentional acts.

41. The injury that FCOM has suffered, and will continue to suffer, unless Defendants' acts of infringement are enjoined, is irreparable.

42. FCOM has no adequate remedy at law for said copyright infringement, accordingly, FCOM is entitled to preliminary and permanent injunctive relief pursuant to 17 U.S.C. § 502.

Count II – Trademark Infringement
[15 U.S.C. §1114 and §1125]

43. FCOM incorporates by reference all the allegations set forth in ¶¶ 1-35 as if fully set forth herein.

44. FCOM is the rightful owner of all rights related to the Mark and, pursuant to 15 U.S.C. §1114 and §1125, owns a registered trademark in same, for which an application for registration has been made and a certification issued.

45. Defendants, by using FCOM's Mark for its own economic gain without a contractual agreement with FCOM— unlawfully substantially reproduced the Mark, unlawfully distributed the Mark, unlawfully displayed the Mark, unlawfully created a derivative version of the Mark, and unlawfully used the Infringing Mark in commerce, thereby causing confusion in the marketplace, in violation of FCOM's rights contained in the Lanham Act.

46. Upon information and belief, Defendants' acts of trademark infringement were willful and deliberate in reckless disregard of FCOM's Mark, and intended for its own economic gain, without consideration for processes and safeguards that would have protected the rights of

trademark holders. *See generally* 15 U.S.C. §1114 and §1125; *see also* Exhibit J, Defendant Burke providing guidance designating the Mark as a reference.

47. FCOM has no adequate remedy at law for said trademark infringement, accordingly, FCOM is entitled to preliminary and permanent injunctive relief pursuant to 15 U.S.C. § 1116.

Count III - Cybersquatting
[Cybersquatting Under 15 U.S.C. § 1125(d)]

48. FCOM incorporates by reference all the allegations set forth in ¶¶ 1-35 as if fully set forth herein.

49. FCOM, upon information and belief, alleges that Defendants registered, trafficked in or used the Infringing Domain Name.

50. FCOM's Mark is distinctive and federally registered at the USPTO at the time Defendants registered and used the Infringing Domain Name.

51. The Infringing Domain Name is confusingly similar to FCOM's Mark.

52. FCOM, upon information and belief, alleges that Defendants registered, trafficked in, or used the Infringing Domain Name in bad faith and with bad faith intent to profit from FCOM's Mark.

53. FCOM, upon information and belief, alleges that the Infringing Domain Name does not consist of the legal name of any Defendant, nor is it a name that is otherwise commonly used to identify any Defendant.

54. FCOM, upon information and belief, alleges that Defendants have not made any prior use of any of the Infringing Domain Name in connection with the bona fide offering of any goods or services.

55. FCOM, upon information and belief, alleges that Defendants registered and used the Infringing Domain Name to divert consumers from FCOM's website and Works to the Infringing Domain Name for Defendants' commercial gain by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Infringing Domain Name.

56. Defendants' registration, use, or trafficking in the Infringing Domain Name constitutes cybersquatting in violation of 15 U.S.C. § 1125(d), entitling FCOM to relief.

57. Defendants engaged in the above activities complained of above with bad faith intent to profit from the registration or maintenance of the Infringing Domain Name.

58. By reason of Defendants' acts alleged herein, FCOM's remedy at law is not adequate to compensate FCOM for the injuries inflicted by Defendants. Accordingly, FCOM is entitled to preliminary and permanent injunctive relief pursuant to 15 U.S.C. § 1116.

Count IV - Unfair Competition
[15 U.S.C. § 1125]

59. FCOM incorporates by reference all the allegations set forth in ¶¶ 1-35 as if fully set forth herein.

60. FCOM created an original Work that has been published and used by hundreds of FCOM's licensees and franchisees on the Internet. Further, the Work has contributed significantly to FCOM's annual revenue stream since its inception.

61. Defendants' unauthorized use of FCOM's Work, which Defendants made available on the Internet, has caused irreparable harm to FCOM. This harm was caused by, *inter alia*, directing traffic and revenue away from FCOM's Works. Any continued use or display of a derivative of said Work by Defendants will add to the irreparable harm already caused.

62. As a direct and proximate result thereof, FCOM has been injured, in an amount

presently unknown and to be determined at time of trial, by reason of Defendants' intentional acts.

63. The injury that FCOM has suffered, and will continue to suffer, unless Defendants' acts of infringement are enjoined, is irreparable.

64. FCOM has no adequate remedy at law, accordingly, FCOM is entitled to preliminary and permanent injunctive relief pursuant to 15 U.S.C. § 1116.

PRAYER FOR RELIEF

WHEREFORE, FCOM respectfully requests that this Court:

Count I – Copyright Infringement

- (A) Permanently enjoin Defendants, and all other persons who are in active concert or participation with Defendants, from continuing to infringe FCOM's copyrighted Work;
- (B) Order Defendants to delete and permanently remove copies of FCOM's Work from each of the computers under Defendants' possession, custody or control;
- (C) Award FCOM, at its election, damages in an amount to be determined at time of trial and/or Defendants' infringing profits, or statutory damages;
- (D) Award FCOM reasonable attorneys' fees and costs pursuant to 17 U.S.C. §505; and
- (E) Grant FCOM any other and further relief this Court deems just and proper.

Count II – Trademark Infringement

- (A) Permanently enjoin Defendants, and all other persons who are in active concert or participation with Defendant, from continuing to infringe on FCOM's Mark;
- (B) Award FCOM damages in an amount to be determined at time of trial based Defendants' infringing profits pursuant to 15 U.S. Code § 1117(a) and/or statutory

damages pursuant to 15 U.S. Code § 1114;

(C) Award FCOM reasonable attorneys' fees and costs pursuant to 15 U.S. Code § 1117(a); and

(D) Grant FCOM any other and further relief this Court deems just and proper.

Count III - Cybersquatting

(A) Find that Defendants violated FCOM's rights in the Mark under 15 U.S.C. §1125(d);

(B) Order Defendants to transfer the Infringing Domain Name ("ILove2Kickbox.com") to FCOM;

(C) Permanently enjoin Defendants, and all other persons who are in active concert or participation with Defendant, from the following: (i) registering, trafficking in, or using, in any manner, any Internet domain name that incorporates, in whole or in part, FCOM's Mark, or any name, mark or designation confusingly similar thereto; (ii) using any of FCOM's Mark, or any other name, mark, designation or depiction in a manner that is likely to cause confusion regarding whether Defendants are affiliated or associated with or sponsored by FCOM; iii) registering any Internet domain name that incorporates, in whole or in part, FCOM's Mark, or any name, mark or designation confusingly similar thereto; iv) assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs C(i) through C(iii) above;;

(D) Order Defendants to account to FCOM for, and disgorge, all profits they have derived by reason of the unlawful acts complained of above;

(E) Award FCOM damages in an amount to be determined at time of trial based Defendants' infringing profits pursuant to 15 U.S. Code § 1117(a) and/or statutory

damages pursuant to 15 U.S. Code § 1125(d), in the amount of in an amount of one hundred thousand dollars (\$100,000), and that those damages be trebled, under 15 U.S.C. § 1117;

(F) Award FCOM reasonable attorneys' fees and costs pursuant to 15 U.S. Code § 1117(a); and

(G) Grant FCOM any other and further relief this Court deems just and proper.

Count IV - Unfair Competition

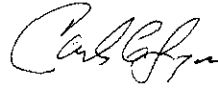
(A) Permanently enjoin Defendants, and all other persons who are in active concert or participation with Defendants, from continuing to engage in conduct giving rise to unfair competition;

(B) Award punitive damages for Defendants' acts of unfair competition;

(C) Award FCOM reasonable attorneys' fees and costs pursuant to 15 U.S.C. § 1117; and

(D) Grant FCOM any other and further relief this Court deems just and proper.

Respectfully submitted,



Digitally signed by Carlos A.
Leyva
DN: cn=Carlos A. Leyva, o,
ou=The Digital Business Law
Group, P.A.,
email=cleyva@digitalbusinessl
awgroup.com, c=US
Date: 2014.06.10 06:58:41
-04'00'

By: _____

Carlos A. Leyva
Florida Bar No. 0051017
DIGITAL BUSINESS LAW GROUP, P.A.
1001 Starkey Rd. #18
Largo, FL 33771
(800) 516-7903 phone
(800) 257-9128 fax
cleyva@digitalbusinesslawgroup.com

**ATTORNEY FOR PLAINTIFF
FC ONLINE MARKETING, INC.**

EXHIBIT A

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maui A. Pallante

Register of Copyrights, United States of America

Registration Number
TX 7-591-014

**Effective date of
registration:**
October 20, 2012

Title _____

Title of Work: Ilovekickboxing Carles Place Website

Completion/Publication _____

Year of Completion: 2011

Date of 1st Publication: October 31, 2011

Nation of 1st Publication: United States

Author _____

■ **Author:** FC Online Marketing, Inc.

Author Created: new and revised text, editing, additional artwork, additional photographs

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant _____

Copyright Claimant: FC Online Marketing, Inc.

3601 Hempstead Tpke, Suite 503, Levittown, NY, 11756, United States

Limitation of copyright claim _____

Material excluded from this claim: previously published version of website

New material included in claim: new and revised text, editing, additional artwork, additional photographs

Rights and Permissions _____

Organization Name: FC Online Marketing, Inc.

Address: 3601 Hempstead Tpke

Suite 503

Levittown, NY 11756 United States

Certification _____

Name: Carlos A. Leyva

Date: October 2, 2012

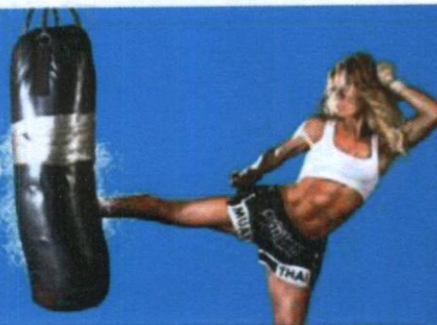
EXHIBIT B

11:44:20 AM 6/1/2014



IMPORTANT:
Do You Live in Cranston,
Johnston, Providence, North
Providence, Warwick, West
Warwick, or Providence County?

Call Now! 401-300-2647



**"More Rhode Island Men and Women Are Falling In Love With
America's Hottest New Exercise That Lets You Lose Weight and
Melt Fat Faster Than You Ever Thought Possible"**

**Famous Cranston Instructor Shows You How to Have Fun While Sculpting an Attractive
Body, Shrinking Your Waistline, and Toning Your Muscles**



From,
Jake Burke
ilove2kickbox.com
530 Wellington Avenue
Cranston, Rhode Island 02910
(401) 300-2647

**Enter your Name and Primary Email
to get Instant Access**

Name

Email

Gain Instant Access

Dear Friend,

Are you SICK & TIRED of...

- **Hard-to-follow diets?**
- Too much fat in your midsection?
- **Feeling unhappy or uncomfortable with your body?**
- Weight-loss programs and boring old gyms?
- **Being out of energy or sluggish every day?**

No Problem! No Problem!

I help men and women (including moms) have fun while getting in shape...
and at the same time teaching them real self-defense techniques.

So, if you're ready to take your fitness to the next level, then I have
something for you that's better than...



So, if you're ready to take your fitness to the next level, then I have something for you that's better than...

- Spinning
- Jogging
- Weights
- Aerobics
- Any other exercise

"Say Good-bye to the Old Weight-Loss Programs!"

Perhaps like many men and women, you feel like you've tried every diet, workout plan, or fitness routine, only to be met with disappointment.

Or maybe you're someone who is simply stuck at a plateau...

...and you need something to get you unstuck so you can **melt away those last 10 to 20 pounds of stubborn and difficult fat.**

Our Cranston kickboxing classes have a reputation for being the best in Rhode Island.

It delivers fast results.
And it beats other programs because it helps you...

- ✓ Trim away your stubborn fat
- ✓ Get Lean
- ✓ Achieve the attractive, sexy body of your dreams



"The Top Five Reasons Men and Women Love Our Cranston Kickboxing Program"

It's a fun, high-energy workout that allows you to...

- 1 Melt fat fast
- 2 Relieve your stress
- 3 Tone your entire body
- 4 Learn valuable self-defense techniques
- 5 Feel more attractive and confident



Our kickboxing classes have a powerful cardio-conditioning element that is very effective at burning fat - especially around the midsection. In fact, **with our Cranston kickboxing sessions, you'll tone your entire body.**

And while most Rhode Island residents turn to our kickboxing program for the fitness and health

With our Cranston kickboxing sessions, you'll tone your entire body.

And while most Rhode Island residents turn to our kickboxing program for the fitness and health benefits, *the self-defense element is certainly a nice perk for many women...and men.*

Being able to protect yourself is a priceless asset that empowers you because you'll be better able to safely get out of dangerous situations. Plus, many men and women find our kickboxing sessions a fabulous way to get rid of stress after a long, hard day.

With our Cranston kickboxing classes, you'll feel more attractive, sexy, and confident.

- ✓ Get into much better shape
- ✓ Speed up your sluggish metabolism and burn more calories
- ✓ Melt fat away, quickly
- ✓ Boost your confidence and motivation
- ✓ Feel attractive

"See What Others Are Saying About Cranston Kickboxing..."



After

Before

"Mother of 3 got her sexy 'bikini-body' back!"

"After my third child, I had a horrible time trying to lose the weight I gained. It seemed like my body would never go back to the way it was. After up and down dieting and trying different workout fads, I got a few of my cousins together to join Burke's kickboxing class because I heard that their Kickboxing classes were the best.

I laughed when one of the instructors told me I could lose 20 lbs. in 8 weeks. 22 pounds later and I'm still in shock of what I've done! Thanks ILove2Kickbox.com!

- Ashley Rodrigues 32 (Housemom)
Cranston, Rhode Island

"I went from a size 16 to a size 4 in just 1 year!"

Since joining ILove2Kickbox.com almost a year ago, I have lost a few things but have gained so much. **Losing 109 lbs. and going from a size 16 to a size 4.** I can tell you there is no workout out there like what you'll get at ILove2Kickbox.com, not only have I gained back my confidence, I feel great, and I'm in the best shape of my life.

If you are looking to lose weight, get in great shape, feel amazing, get healthy and/or learn how to defend yourself, then I would recommend coming to check us out! You will be hooked from the start!

- Abbe Aldrich, 37(Mom)
Warwick, Rhode Island



After

Before

"My instructors stay on top of me and keep me looking my best!"

Thanks a ton for helping me to keep on track with my fitness goals and get into awesome shape! If it wasn't for you I would still be out of shape and depressed about how I look. I can't tell you how much it has helped to have you right there keeping me motivated and on track. I knew I did the right thing by joining your kickboxing classes!

You always know how to push me far beyond what I would ever dare to do on my own! And the best part is you make the workouts fun! **Your school is so positive and upbeat, it's no wonder everyone there gets such great results.**



After

Before

positive and upbeat, it's no wonder everyone there gets such great results.

"You guys are awesome!"

- **Debbie Marchetti 25** (Cranston, RI)
Bookkeeper

"Over 100 pounds gone in 1 year!"

As a financial planner and business owner, I'm usually in the office all day and by the end of the day, I'm so drained that going to the gym just felt like a dreadful so I just stopped going.

After a severe injury I put on a ton of extra pounds. Even though I worked out most of my life the **kickboxing class at ILove2Kickbox.com is the only program that got me motivated to WANT to work out!**

The staff here really takes the time out to make sure everyone gets the best possible workout and they always encourage me to push myself to achieve my goals. That's something I was never able to do by myself at the gym. After a week of classes, I was already feeling a difference in my body and **1 Year, I'm down over 100 pounds!**

Thanks Guys!

- **Chris Cioe 24**(East Greenwich, RI)
Financial Planner

After



Before



"I've lost fat, gained muscle, feel a decade younger and have a whole new outlook on life.."

I decided to join after reading the testimonials, and it was the best decision I ever made. Results were immediate both mentally and physically - exactly what I needed! It honestly feels like you're kicking off the pounds with each kick and sweating out stress with each punch! Addicting to say the least!! The instructors are beyond motivational. They pushed my "I can't" way of thinking to "I can", helping me surpass fitness goals I never thought I could accomplish!!

- **Lyn Doucette** (Cranston, RI)
Project Analyst

After



Before



"I lost 50 pounds in 5 months!"

ILove2Kickbox.com was literally a life changing experience. I walked in the door thinking it was going to be just another rip off but I was willing to give it a try. So I signed up for the web special and after the 1st class, I signed up for unlimited classes! **I felt amazing after my first class!**

The staff is amazing, very professional and extremely helpful and motivating. They don't only help with fitness but with nutrition planning too. If you are willing to put the work in, they are willing to help you achieve your goals. **With their amazing kickboxing classes I lost 50 pounds in 5 months!**

Thank you ILove2Kickbox.com

- **Gregory J. Hargis**(Providence, RI)
Electric Boat

After



Before



"I couldn't believe I'm down 3 dress sizes!"

I never enjoyed working out and was never really "in

After





After

Before

3 dress sizes!"

I never enjoyed working out and was never really "in shape". Before I joined I Love 2 Kickbox.com my doctor told me that I needed to lose weight. I was so nervous to start classes because of how out of shape I was, but the instructors and other members were so welcoming and helpful.

Since joining a year ago I have lost 22 pounds and I'm down 3 dress sizes. At my annual physical this year my doctor was completely blown away!! I truly believe that this is a great program and has helped me turn my life around!!

THANK YOU to the fabulous instructors who push me to be the best version of me!

- Sabrina Mimnaugh (Warwick, RI)
Perform Better Accounting

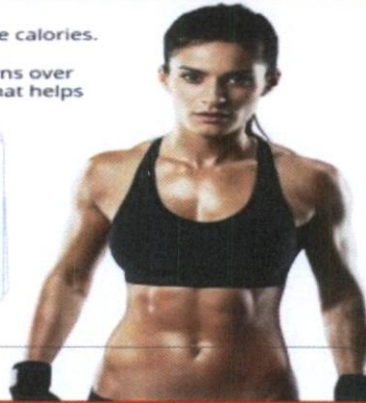
"Why Are Men and Women in Our Kickboxing Classes Able To Get Amazing Results, So Quickly?"

Kickboxing burns mega-calories. There's no other form of aerobic activity that burns more calories.

Research and studies have shown that kickboxing burns over 800 calories per hour. It's a high-power form of cardio that helps boost metabolism and shed excess fat and weight.

Kickboxing	860 calories per hour
Jogging	490 calories per hour
Walking	245 calories per hour
Bicycling	420 calories per hour

With our kickboxing classes, you can look forward to burning tons of calories. Plus, you can expect the following fitness and health benefits...



- ✓ **Fat loss**
- ✓ **More muscle tone**
- ✓ **Improved energy, endurance, and stamina**
- ✓ **Better coordination and flexibility**
- ✓ **Increased confidence and self-esteem**
- ✓ **Lots of fun**

And, it's always more fun with your friends. So, feel free to bring a few of your friends. You'll certainly have more fun as you work out and burn fat with your buddies or girlfriends.

"What Can You Expect Your First Day at Our Cranston Kickboxing Classes?"

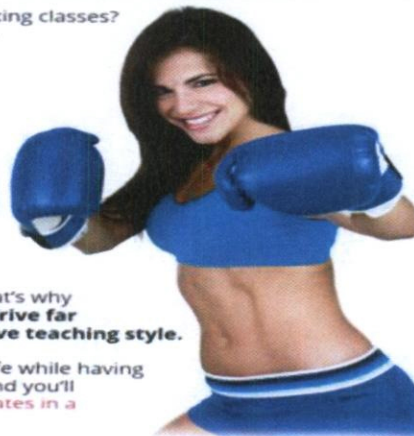
Okay, so what can you expect at our Cranston kickboxing classes? Well, let me first tell you **what you won't find here...**

- ✗ **No pushy sales people**
- ✗ **No arrogant staff**
- ✗ **No overcrowded facilities**
- ✗ **No out-of-shape instructors**
- ✗ **No rude people or classmates**
- ✗ **No Poor Service**

You'll find none of that garbage in our classes. And that's why **I'm never surprised to find that men and women drive far distances to experience our caring, fun, and positive teaching style.**

Our goal is to help you get in the best shape of your life while having fun with one of the top-rated cardio workouts ever. And you'll experience positive interactions with staff and classmates in a friendly atmosphere.

At our Cranston kickboxing studio, you'll...



✓ Get in shape while learning kickboxing

✓ Have fun and make new friends



Have fun and make new friends



Learn the elements of kickboxing and self-defense

"Now, What's Keeping You From Getting a Slimmer, Leaner, and More Attractive Body?"

Real progress and results can only be achieved by taking action.

And right now, you have a special opportunity to take action, make progress, and get the results necessary so that you can...

- ✓ **Melt fat and flab**
- ✓ **Sculpt lean, tone muscles**
- ✓ **Tighten your thighs and abs**
- ✓ **Burn away your belly fat**
- ✓ **Improve your concentration, focus, and confidence**

Get Started Now If YOU Seriously Want To...

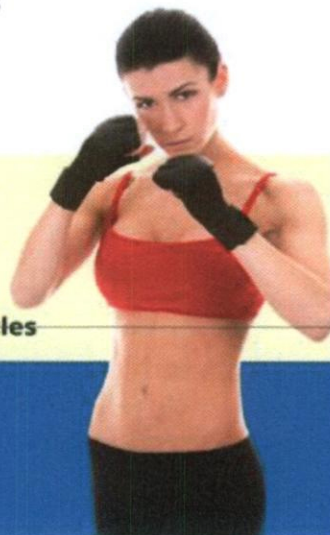
...Lose weight, burn fat, and tone your muscles while at the same time learning how to protect and defend yourself, then act now.

Enter your name and e-mail below to access:

- ✓ **Kickboxing Prices**
- ✓ **Kickboxing Schedules**
- ✓ **Special "Web Only" Offers**
- ✓ **FREE Tips to Burn Fat and Tone Your Muscles**

Name

Email



Gain Instant Access

*Your privacy is important to us. We promise to never share your name or email address with anyone!

P.S. : This kickboxing program is realistic, result-driven, and very do-able. You'll experience the best fat-burning, fitness, and weight loss workout to make a dramatic turn-around - and eliminate that hard to lose fat. Take advantage of my limited-time **Cranston Kickboxing "Web Special Offer."** Don't miss out. Reserve your spot NOW.

To Your Fitness and Health,

Jake Burke

Jake Burke
ILove2Kickbox.com
530 Wellington Avenue
Cranston, Rhode Island 02910
(401) 300-2647



ILove2Kickbox.com 530 Wellington Avenue Cranston, Rhode Island 02910 (401) 300-2647

[sign up](#)

[contact us](#)



©2014 Burke's Martial Arts LLC. All rights reserved.

11 16 52 AM 5/1/2014



IMPORTANT:
Do You Live in Cranston,
Johnston, Providence, North
Providence, Warwick, West
Warwick, or Providence County?

Call Now! 401-300-2647



**You're 3 Steps Away From Getting Into Great
Shape, Becoming More Attractive, and
Being Able To Defend Yourself**

STEP 1

Watch this important video...



STEP 2

Check out our kickboxing class schedule...

Monday	10:00 AM	7:45PM
Tuesday	10:00 AM	4:00PM 5:15PM
Wednesday	10:00 AM	7:45PM
Thursday	10:00 AM	4:00PM 6:30PM
Friday	10:00 AM	5:30PM
Saturday	10:00 AM	
Sunday	CLOSED	

STEP 3

Take advantage of our limited-time, web special offer...

Take advantage of our limited-time, web special offer...

**"For a Limited Time, You Can Take Advantage of
Our Cranston Kickboxing 'Web Special Offer'
For Less Than \$20"**

Here's exactly what you will get:

- ✓ **Three (3) one-hour kickboxing classes (\$150 value)** : World-class instruction by caring, expert, and professional staff to help you succeed.
- ✓ **FREE Boxing Gloves (\$45 value)** : Totally free pair of boxing gloves
- ✓ **FREE Fitness Assessment (\$121 value)** : Powerful, personalized fitness assessment that allows you to determine your current fitness level, identify your unique training needs, and select the ideal training regimens.
- ✓ **FREE Nutritional Plan with Smart-phone App (\$247 value)** : A customized nutrition program just for you...with a powerful Smart-phone app that lets you access your personal nutrition plan wherever you are. You'll be able to track your body fat, weight loss progress, and nutrition easier than ever before.
- ✓ **Flexible Class Schedule**: Classes are offered Monday - Saturday at times to accommodate most schedules...including busy moms.

You could easily spend as much as \$395 dollars on everything you get with our Satisfaction-Guaranteed Cranston Kickboxing "Web Special Offer."

**"My Unconditional 'Take-It-To-The-Bank' 100%
Satisfaction Guarantee For This Cranston
Kickboxing 'Web Special Offer'"**

Your First, Three (3) One-Hour Kickboxing Classes.

I want you to feel as confident as I am, and many others are who have enjoyed my Cranston Kickboxing Classes. And if you have any lingering doubts at all, I want to make this "Web Special Offer" foolproof for you.

You see, I fully guarantee your satisfaction. Not simply for the first kickboxing class. Not just for the first two kickboxing classes.
But for all three kickboxing classes!

**This Web Special Offer Might Be
Discontinued Soon...**

...but TODAY, I'm offering all of this to you for less than the price of the official boxing gloves that you'll get FREE when you join.

You can enjoy our Cranston Kickboxing Classes that help you to achieve

slim, lean, and sexy results fast...for only \$19.99!



ILove2Kickbox.com 530 Wellington Avenue Cranston, Rhode Island 02910 (401) 300-2647

[Sign Up](#)

[Contact Us](#)

©2014 Kickbox Manual Arts LLC All rights reserved.

EXHIBIT C



We know the law and we know the web. SM

DIGITAL BUSINESS LAW GROUP, P.A.

June 2, 2014

SENT VIA EMAIL

Burke's Martial Arts LLC
ILove2Kickbox.com
Attn: John Jacob Burke
530 Wellington Avenue
Cranston, Rhode Island 02910
(401) 300-2647
Burkesmartialarts@gmail.com

Re: First Notice of Copyright Infringement

Dear Mr. Burke:

We are writing on behalf our client, FC Online Marketing, Inc. ("Client" or "FCOM"), which owns copyrights in various online properties and educational products ("Content"). See Exhibit A, U.S. Copyright Office Registration of the www.ilovekickboxingcarleplace.com Website, attached hereto and included herein by reference¹. This letter is intended to provide Burke's Martial Arts LLC ("BMAL") the basis of our Client's claims and to serve as first notice of copyright infringement.

It has recently come to our Client's attention that BMAL copied, published and distributed our Client's Content without authorization and, therefore, in violation of our Client's federal copyright. See Exhibit B, as an example of copyright infringement highlighted in yellow. Exhibit B is an example of where BMAL engaged word-for-word copying of content located on our Client's website at:

- www.ilovekickboxingcarleplace.com
- www.ilovekickboxingcarleplace.com/signup.php

Examples of BMAL's wrongful copying of our Client's Content can be found on the following BMAL website:

- www.ilove2kickbox.com
- www.ilove2kickbox.com/inner.html#

Because of BMAL's unauthorized copying, publication and distribution ("Infringement") of the Content, FCOM's ability to market its brand has been damaged, causing FCOM economic harm. Further, because the copyright Infringement in this instance occurred after registration with the U.S. Copyright Office, statutory damages of up to \$150,000 (at the court's discretion) per work may be available. Your publication and distribution of our Client's content as part of BMAL's website exposes BMAL to liability for copyright infringement.

¹ All exhibits are attached hereto and included herein by reference.

Copyright Infringement

Under the Federal Copyright Statute (17 U.S.C. §106) it is unlawful to reproduce and/or distribute another's copyrighted content without authorization. Our Client has never given BMAL authorization to reproduce or distribute its Content. There is a significant body of case law holding that such copying, publication and distribution constitutes copyright infringement. Should litigation become necessary, our Client will seek all available damages under 17 U.S.C. §504, including actual or statutory damages, and attorneys' fees where applicable. Furthermore, our Client may elect to seek an accounting of profits generated by BMAL, in order to disgorge as damages any profits BMAL by wrongfully obtained using our Client's Content.

Next Steps

Although it is our Client's hope that this matter may be resolved without the need for legal action, our Client fully intends to pursue all remedies allowed by applicable law if amicable resolution cannot be reached. In the absence of BMAL's response to enter into good faith negotiations within the next five (5) business days, we will be obligated to construe your silence as a rejection of this request, and alternative means will have to be considered as required. As previously mentioned, our Client is sending this letter for the purpose of resolving this dispute amicably. However, if litigation is subsequently required, this letter serves as notice of copyright infringement pursuant to 17 U.S.C. §504.

In order to achieve a full and complete resolution of this matter, our Client requires the following: 1) complete removal of our Client's Content from all BMAL distribution channels; and 2) payment of damages in a mutually agreed upon amount for the irreparable harm that has already been done. Such irreparable harm includes, but is not limited to, lost product sales and licensing revenue.

Sincerely,

Carlos A. Leyva
Managing Shareholder
The Digital Business Law Group, P.A.

cc: FC Online Marketing, Inc.
File

EXHIBIT D



DIGITAL BUSINESS LAW GROUP, P.A.

We know the law and we know the web.SM

June 2, 2014

Sender Information:

FC Online Marketing, Inc.
3601 Hempstead Tpke, Suite 503
Levittown, NY 11756

Sent by:

The Digital Business Law Group, P.A.
Authorized Agent of FC Online Marketing, Inc.
1001 Starkey Rd. #18,
Largo, FL 33771
800-516-7903

Recipient:

Copyright Agent
Go Daddy
14455 N. Hayden Road, Suite 219
Scottsdale, AZ 85260
copyrightclaims@godaddy.com

Infringer:

Burke's Martial Arts LLC
ILove2Kickbox.com
Attn: John Jacob Burke
530 Wellington Avenue
Cranston, Rhode Island 02910
(401) 300-2647
Burkesmartialarts@gmail.com

Re: Copyright Infringement, DMCA Takedown Notice

Dear Sir or Madame:

We are writing on behalf our client FC Online Marketing, Inc. ("Client"), which owns various intellectual property rights, including a copyright, in content that has been wrongfully copied and/or published on a website that your company hosts and/or controls. See Exhibit C, Domaintools lookup of ILove2Kickbox.com identifying Go Daddy as the hosting company, attached hereto and incorporated herein by reference¹.

This DMCA Takedown Notice pertains to ILove2Kickbox.com ("IL2K"), a website that Go Daddy ("GDDY") hosts as confirmed by Exhibit C.

¹ All exhibits are attached hereto and included herein by reference.

- 2 -

We have a good faith and reasonable belief that our Client's content was copied, in several separate instances, onto and remains on your servers without permission. Our Client never entered into any agreement with IL2K that would permit IL2K to adapt or otherwise use the Work; therefore IL2K possesses no rights whatsoever in regard to any of the exclusive rights owned by our Client under the Copyright Act. (see Exhibit A, United States Copyright Registration Office Certificate of Registration for "I Love Kickboxing Carle Place")

The original content, to which our Client owns the exclusive copyright, can be found at:

Our Client's content:

("First Instance"): www.ilovekickboxingcarleplace.com (see Exhibit B infringing urls with Copyright Infringement highlighted in yellow).

("Second Instance"): www.ilovekickboxingcarleplace.com/signup.php (see also Exhibit B).

The Website's unauthorized and infringing copy can be found at:

First Instance: <http://www.ilove2kickbox.com/>

Second Instance: <http://www.ilove2kickbox.com/inner.html#>

This letter is official notification under Section 512(c) of the Digital Millennium Copyright Act ("DMCA"), and our Client seeks the removal of the aforementioned infringing material from your servers. We request that you immediately notify the infringer of this notice and inform him of his duty to remove the infringing material immediately, and notify him to cease any further posting of infringing material to your server in the future.

Please also be advised that applicable law requires service providers to remove or disable access to the infringing materials upon receiving this notice. Under U.S. law a service provider enjoys immunity from a copyright lawsuit provided it acts with deliberate speed to investigate and rectify ongoing copyright infringement.

If service providers do not investigate and remove or disable the infringing material this immunity is lost. Therefore, in order for GDDY to remain immune from a copyright infringement action GDDY will need to investigate and ultimately remove or otherwise disable the infringing material from your servers with all due speed should the direct infringer not comply immediately.

We are providing this notice in good faith and with the reasonable belief that rights our Client owns copyright in the aforementioned Content that is being infringed.

Under penalty of perjury I certify that the information contained in the notification is both true and accurate, and I have the authority to act on behalf of our Client, the owner of the copyright(s) involved.

Should you wish to discuss this with me please contact me directly.

- 3 -

Sincerely,

Carlos A. Leyva

Managing Shareholder
The Digital Business Law Group, P.A.
cleyva@digitalbusinesslawgroup.com

cc: FC Online Marketing, Inc.
File

EXHIBIT E



Carlos Leyva <cleyva@digitalbusinesslawgroup.com>

DMCA Takedown Notification - [Incident ID: 23121842]

copyrightclaims@godaddy.com <copyrightclaims@godaddy.com>

Thu, Jun 5, 2014 at 10:37 AM

Reply-To: copyrightclaims@godaddy.com

To: cleyva@digitalbusinesslawgroup.com

Your resolution

Discussion Notes

Support Staff Response

In reference to **ILOVE2KICKBOX.COM**:

Dear Sir or Madam,

Thank you for contacting GoDaddy's Copyright Claims Department. We have suspended the website in question. Please allow up to an hour for this change to take effect.

Please understand that as a web hosting provider, we are not able to make legal determinations as to who is right or wrong in an infringement claim.

If the website owner indicates they are prepared to remove the allegedly infringing content, we will re-activate the hosting account in order to allow that to happen. If they complete a counter notification regarding the work(s) in question, in accordance with our Copyright Infringement Policy, a copy of that counter notification will be sent to you. Unless we receive official notice that you have initiated court proceedings, we will reactivate the website 10 days after that notice. If we do receive such official notice, the website will remain down according to the directions of the court(s) at that time.

Let us know if you have any questions at this time.

Kindest Regards,

Chris
Copyright Department
Go Daddy Operating Company, LLC
CopyrightClaims@GoDaddy.com

If you need further assistance with this matter, please reply to this email and reference [Incident ID: 23121842].

Regards,
Trademark Claims

EXHIBIT F

United States Patent and Trademark Office "I Love Kickboxing.com" abstract

7:54:44 AM 6/2/2014



United States Patent and Trademark Office

[Home](#) [Site Index](#) [Search](#) [FAQ](#) [Glossary](#) [Guides](#) [Contacts](#) [eBusiness](#) [offiz alerts](#) [News](#) [Help](#)[Trademarks](#) > [Trademark Electronic Search System \(TESS\)](#)

TESS was last updated on Mon Jun 2 03:10:52 EDT 2014

[TESS Home](#) [NEW/OLD](#) [STRUCTURED](#) [FREE FORM](#) [Advanced Search](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [FIRST DOC](#) [CURR LIST](#) [NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)
[Logout](#) Please logout when you are done to release system resources allocated for you.

 List At: OR to record: **Record 2 out of 3**
[TMDR](#) [ASSIGN Status](#) [TTAB Status](#)

(Use the "Back" button of the Internet Browser to return to TESS)



Word Mark ILOVEKICKBOXING.COM

Goods and Services IC 041, US 100 101 107, G & S: Physical fitness instruction; Providing classes, workshops, seminars and camps in the fields of fitness, exercise, boxing, kick boxing and mixed martial arts; Providing fitness and exercise facilities. FIRST USE: 20090701. FIRST USE IN COMMERCE: 20090701

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 02.11.01 - Hearts excluding hearts as carriers or depicted on playing cards

03.17.01 - Wings, birds

21.03.06 - Baseball mitts; Boxing gloves; Catcher's mitt; Gloves, baseball; Gloves, boxing; Gloves, hockey; Hockey gloves; Mitts (baseball)

Serial Number 86779630

Filing Date November 14, 2012

Current Basis 1A

Original Filing Basis 1A

Published for Opposition February 5, 2013

Registration Number 4324554

Registration Date April 23, 2013

Owner (REGISTRANT) FC Online Marketing Inc. CORPORATION NEW YORK STE 503 3601 Hempstead Tpke. Levittown NEW YORK 11756

Prior Registrations 4009496

Description of Mark Color is not claimed as a feature of the mark. The mark consists of a winged heart with boxing gloves hanging on it behind the text "I Love Kickboxing.com"

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

[TESS Home](#) [NEW/OLD](#) [STRUCTURED](#) [FREE FORM](#) [Advanced Search](#) [SEARCH OG](#) [TOP](#) [HELP](#) [FIRST DOC](#) [CURR LIST](#) [NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)
[HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

EXHIBIT G

iLoveKickbox

SLIM, LEAN & SEXY IN 90 DAYS

GUARANTEED



America's Hottest Kickboxing Class Helps You To...

**Discover The Best Kept Secrets To
Getting A Firm Butt, A Smaller Waist,
Toned Arms And A Lean Sexy Body —
All Without Crazy Diets And Long
Hours Wasted At The Gym!**

*Don't Believe It? Just Listen To What Some
Of Our Members Have To Say...*



Select the location nearest you!

Click a flag below to select your c

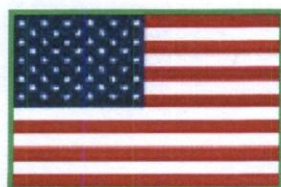
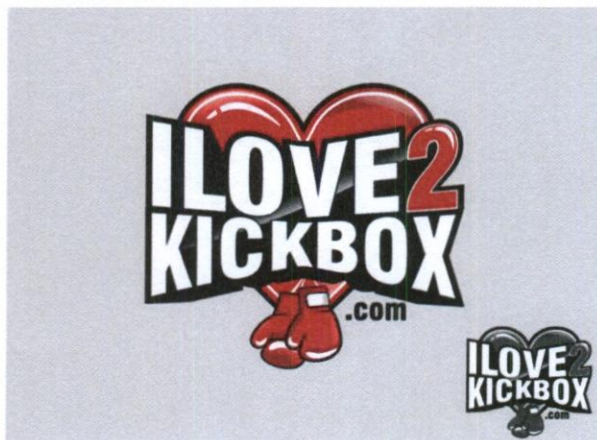


EXHIBIT H

BMAL infringing logo and trademark



FCOM Registered Trademark



EXHIBIT I



We know the law and we know the web.SM

DIGITAL BUSINESS LAW GROUP, P.A.

June 3, 2014

SENT VIA EMAIL

Burke's Martial Arts LLC
ILove2Kickbox.com
Attn: John Jacob Burke
530 Wellington Avenue
Cranston, Rhode Island 02910
(401) 300-2647
Burkesmartialarts@gmail.com

Re: Notification of Trademark Infringement

Dear Mr. Burke:

We are writing on behalf of our client, FC Online Marketing, Inc. ("Client" or "FCOM"), which owns various intellectual property rights, including copyrights and trademarks in various online properties ("Properties").

This letter is intended to provide Burke's Martial Arts, LLC ("BMAL") the basis of FCOM's claims and, from a litigation perspective, to serve as notice of trademark infringement. BMAL is using a domain name "ILove2kickbox.com" and a trademark that is confusingly similar to FCOM's trademark ("Mark") "ILovekickboxing.com". See Exhibit A, United States Patent and Trademark Office abstract of ILovekickboxing.com,¹ attached hereto and included herein by reference.

In addition BMAL is also using a logo that is confusingly similar to FCOM's mark. See Exhibit B, example of infringing use of FCOM's logo/trademark by comparison of 3 design elements. Examples of BMAL's wrongful use of a confusingly similar trademark to FCOM's trademark can be found on the following BMAL websites:

- www.ilove2kickbox.com
- www.ilove2kickbox.com/inner.html#

Because of BMAL's wrongful use of FCOM's trademark ("Infringement"), FCOM's ability to market its brand has been damaged, causing FCOM economic harm.

Trademark Infringement

BMAL's use of the Mark on its website www.ilove2kickbox.com is confusingly similar to the Mark and such use is in derogation of our FCOM's rights under Federal Law. The Lanham Act, Title 15 of the U.S. Code, provides numerous remedies for trademark infringement, including, but not limited to, preliminary and permanent injunctive relief, money damages, disgorgement of BMAL's profits and, where intentional infringement is shown, as is the case here use, (see Exhibit C, commission of the BMAL logo through a competitive process on www.99designs.com/logo-design where BMAL gives artistic guidance to

¹ All exhibits are attached hereto and included herein by reference.

competing artists and FCOM's website ILovekickboxing.com address for comparison), attorneys' fees and possible treble money damages.

Next Steps

Although it is FCOM's hope that this matter can be resolved amicably without the need for legal action, FCOM fully intends to pursue all remedies allowed by applicable law if a settlement agreement cannot be reached. In the absence of BMAL's response to enter into good faith negotiations within the next three (3) business days, we will be obligated to construe your silence as a rejection of this request, and alternative means will have to be considered as required.

As previously mentioned, FCOM is sending this letter for the purpose of resolving this dispute amicably. However, if litigation is subsequently required, this letter serves as notice of trademark infringement pursuant to 15 U.S.C. §1116 and §1117.

As full and complete settlement of this matter, by an agreement to be signed by the parties under Federal Rule of Evidence 408, FCOM is demanding the following: 1) BMAL must cease and desist using the Mark on BMAL's website or anywhere on the Internet; and 2) money damages for the irreparable harm that has already been done to FCOM, in an amount to be negotiated in good faith by the parties.

Sincerely,

Carlos A. Leyva

Managing Shareholder
The Digital Business Law Group, P.A.

cc: FC Online Marketing, Inc.
File

EXHIBIT J

1:17:50 PM 6/1/2014

Questions? Call us 1 800 513 1678

REQUEST A DESIGN CONSULTATION



BROWSE CATEGORIES

HOW IT WORKS

PRICING

TESTIMONIALS

LOG IN

Winner

Ilove2kickbox.com picked a winning design in their logo design contest

For just \$799, they received 226 designs from 83 designers.



Like 2

By ree23

From logos and business cards to websites and stationery, you can get anything designed by running your own design contest on 99designs.

Find out how...

Home / Contests / Logo & identity / Logo design contests — More about Logo design

Slam dunk logo that'll go big time!

By Burke's Share on: [Twitter](#) [Facebook](#)

1 2 3 4 COMPLETED

Congratulations to the winner, ree23!

Overview [Entries \(226\)](#) [Designers \(83\)](#) [Design brief](#)

guaranteed

\$799


Top entries



Design brief


Organization name
Ilove2kickbox.com

Description of business
Group fitness kickboxing classes. It's real kickboxing with gloves, heavy bags and sweat! Target audience is generally women between 18-50 years old with an income of 30k or higher who want to lose weight, get toned and feel confident. I'd say 90% women and 10% men. It's intense exercise that gets results! It must be simple and bold and work for men and women but can have a slightly more feminine feel. Please no figurines! Just an idea. I'm not sure how it will look but maybe using the "O" in the word "love" and making it the shape of a heart? Just an idea.




★★★★★

path_83 #156




★★★★★

path_83 #140




★★★★★

path_83 #139




★★★★★

ree23 #135




★★★★★

path_83 #120




★★★★★

ree23 #125




★★★★★

Bianchie017 #104



★★★★★

Bianchie017 #103



★★★★★

path_83 #101

Read full brief

See all designs

no guarantee it will be the winner at all. Maybe my ideas aren't good but just a thought. you people are the designers not me.

Organization industry
Physical Fitness

Description
None specified

Further requirements
Please look at my competitor at <http://www.ilovekickboxing.com>. I cannot and do not want it to look like this. It's just so you can see what my competitors logo looks like.

99designs is the #1 marketplace for crowdsourced graphic design, connecting 305,407 designers with customers seeking design services

I need something designed I'm a designer

COMPANY

About
Contact
Jobs
Team
Press
Buzz
Testimonials

RESOURCES

Become a designer
Affiliates
99nonprofits
Help

OTHER PRODUCTS

1-to-1 Projects
Swiftly
Ready Made Logos

SOCIAL

Customer Blog
Designer Blog
Twitter
Facebook
Google+
Pinterest

1 23 12 PM 6/1/2014

Questions? Call us 1 800 513 1678

REQUEST A DESIGN CONSULTATION



BROWSE CATEGORIES

HOW IT WORKS

PRICING

TESTIMONIALS

LOG IN

Winner

Ilove2kickbox.com picked a winning design in their logo design contest

For just \$799, they received 226 designs from 83 designers.



Like 2

By ree23

From logos and business cards to websites and stationery, you can get anything designed by running your own design contest on 99designs.

Find out how...

Home / Contests / Logo & identity / Logo design contests — More about Logo design

Slam dunk logo that'll go big time!

guaranteed

\$799

By Burke's Share on: Twitter Facebook

1 2 3 4 COMPLETED

Congratulations to the winner, ree23!

Overview Entries (226) Designers (83) Design brief

Name to incorporate in the logo

ilove2kickbox.com

Slogan to incorporate in the logo

None specified

Description of the organization and its target audience

Group fitness kickboxing classes. It's real kickboxing with gloves, heavy bags and sweat! Target audience is generally women between 18-50 years old with an income of 30k or higher who want to lose weight, get toned and feel confident. I'd say 90% women and 10% men. It's intense exercise that gets results! It must be simple and bold and work for men and women but can have a slightly more feminine feel. Please no figurines! Just an idea. I'm not sure how it will look but maybe using the "O" in the word "love" and making it the shape of a heart? Just an idea, no guarantee it will be the winner at all. Maybe my ideas aren't good but just a thought. you people are the designers not me.

Industry

Physical Fitness

Preferred logo types



An image or shape that is easily recognizable is used to represent your business.



Submit a design

Supplied file types

Layered vectors in EPS & PDF
Screen quality JPEG & PNGs

Note: Fonts used will be detailed by the designer but are not provided for licensing reasons

Payment methods

This contest has been pre-paid with 99designs. The winner will be paid directly by 99designs for the full prize amount, excluding any third party transfer fees.

Payoneer

FREE activation, low charges apply, turnaround in 24-48 business hours

Skrill (Moneybookers)

Charges apply, turnaround in 3-5 business days

Paypal

Free, turnaround in 3-5 business days

Western Union

Charges apply, turnaround in 10 business days

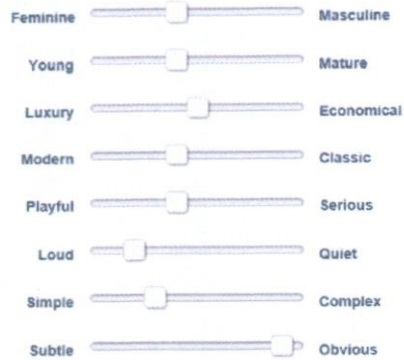
Organization name enveloped by a pictorial element or shape

Representing trends from the internet including gradients, rounded corner etc.

Sample logos

None specified

Values to communicate



Color preferences

I don't know. I like red and black but again I'm not the design guy.

To be used on

- Television/screen
- Signs (Including shops, billboards etc)
- Merchandise (Mugs, T-shirts etc)
- Online (Website, online advertising, banner ads etc)
- Print (Business cards, letterheads, brochures etc)

Notes

Please look at my competitor at www.ilovekickboxing.com. I cannot and do not want it to look like this. It's just so you can see what my competitors logo looks like.

Files attached



Screen Shot 2014-04-27 at 8:21:58 PM.png
31 KB

COMPANY

About
Contact
Jobs
Team
Press
Buzz
Testimonials

RESOURCES

Become a designer
Affiliates
99nonprofits
Help

OTHER PRODUCTS

1-to-1 Projects
Swiftly
Ready Made Logos

SOCIAL

Customer Blog
 Designer Blog
 Twitter
 Facebook
 Google+
 Pinterest

3:18:48 PM 6/1/2014

Questions? Call us 1 800 513 1678

REQUEST A DESIGN CONSULTATION



BROWSE CATEGORIES

HOW IT WORKS

PRICING

TESTIMONIALS

LOG IN

Winner

Ilove2kickbox.com picked a winning design in their logo design contest

For just \$799, they received 226 designs from 93 designers.



Like 2 By ree23

From logos and business cards to websites and stationery, you can get anything designed by running your own design contest on 99designs.

Find out how...

Home / Contests / Logo & Identity / Logo design contests — More about Logo design

Slam dunk logo that'll go big time!

guaranteed
\$799

By Burke's Share on: [Twitter](#) [Facebook](#)


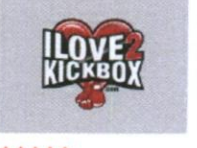










1 2 3 4 **COMPLETED**

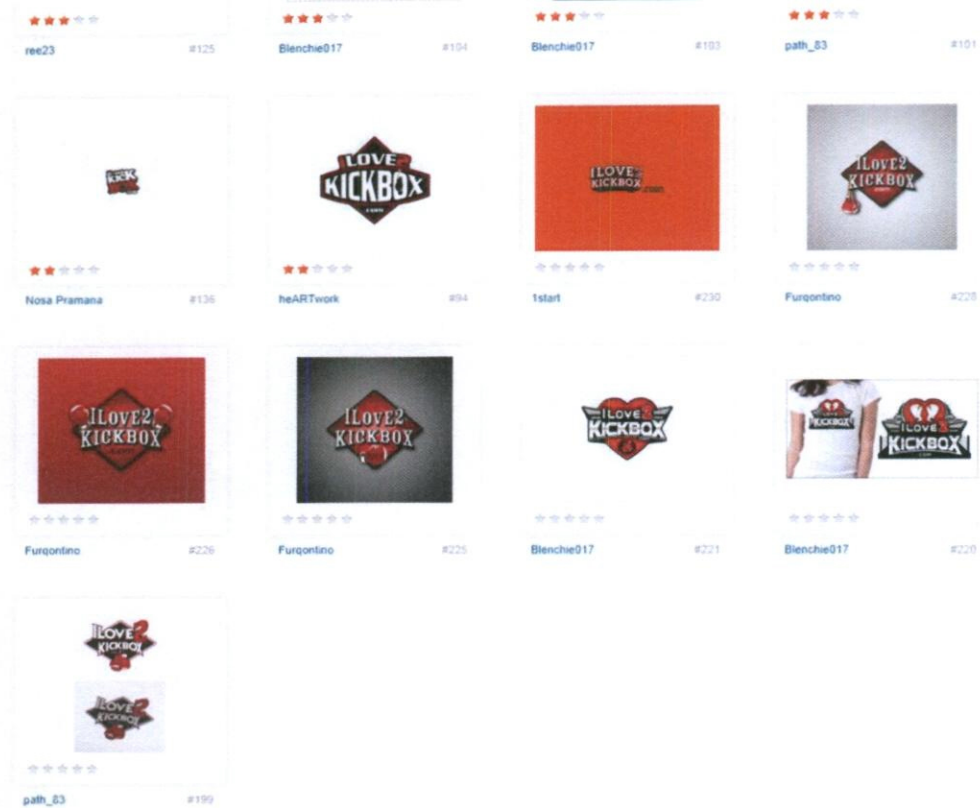
Congratulations to the winner, ree23!

Overview Entries (226) Designers (93) Design brief

Show All All active Unrated ² Rated Eliminated Withdrawn

Order by Time Rating

 WINNING DESIGN ree23 #229	 ree23 #223	 ree23 #109	 path_83 #156
 path_83 #140	 path_83 #139	 ree23 #135	 path_83 #120
 ree23 #125	 Blanchie017 #104	 Blanchie017 #103	 path_83 #101



Contest Discussion

All activity



Burke's — 1 month ago
Contest holder

How about some completely new ideas? I like gloves, check the image I uploaded in my brief. I like #120 the best so far but the gloves aren't good looking and the diamond heart in the glove I don't like at all. A completely new idea is what I'm hoping for. I'm paying \$800 american dollars for this design it's good money. Give it a shot!

COMPANY

About
Contact
Jobs
Team
Press
Buzz
Testimonials

RESOURCES

Become a designer
Affiliates
99nonprofits
Help

OTHER PRODUCTS

1-to-1 Projects
Swiftly
Ready Made Logos

SOCIAL

Customer Blog
Designer Blog
Twitter
Facebook
Google+
Pinterest

EXHIBIT K

1:12:19 PM 6/7/2014

Logged In As: il
FC ONLINE MARI
INC

CONNECT™

[Home](#) | [Recurring Billing](#) | [Billing Report](#)

☐ Show Filters?

Billings Found: 36
Displaying Results: 1 through 25

[Download to Tab-Delimited File](#)

Ref #	Contract ID	Transaction Date	Customer	Payment Type	Amount	Result
41481160	ILKBCranston	4/18/2011 4:04:46 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
43405131	ILKBCranston	5/18/2011 3:47:27 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
45414951	ILKBCranston	6/18/2011 4:00:38 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
47284000	ILKBCranston	7/18/2011 4:04:18 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
56271989	ILKBCranston	11/18/2011 3:23:53 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
63665306	ILKBCranston	2/18/2012 3:19:54 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
72061740	ILKBCranston	5/18/2012 3:13:28 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
77806382	ILKBCranston	7/18/2012 3:11:39 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
80920253	ILKBCranston	8/18/2012 3:11:18 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
87212791	ILKBCranston	10/18/2012 3:11:00 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
90536305	ILKBCranston	11/18/2012 3:11:25 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
96912775	ILKBCranston	1/18/2013 3:10:41 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
111266871	ILKBCranston	5/18/2013 3:08:46 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
114902938	ILKBCranston	6/18/2013 3:09:20 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
118548141	ILKBCranston	7/18/2013 3:07:48 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
130299249	ILKBCranston	10/18/2013 3:07:57 AM	Burke's Martial Arts	AMEX	\$149.00	APPROVAL
146768369	ILKBCranston	2/18/2014 3:08:27 AM	Burke's Martial Arts	AMEX	\$149.00	APPROVAL
150993320	ILKBCranston	3/18/2014 3:09:03 AM	Burke's Martial Arts	AMEX	\$149.00	APPROVAL
156210707	ILKBCranston	4/18/2014 3:07:22 AM	Burke's Martial Arts	AMEX	\$149.00	APPROVAL
142498565	ILKBCranston	1/18/2014 3:07:41 AM	Burke's Martial Arts	AMEX	\$149.00	APPROVAL
138434864	ILKBCranston	12/18/2013 3:07:39 AM	Burke's Martial Arts	AMEX	\$149.00	APPROVAL
134444497	ILKBCranston	11/18/2013 3:08:41 AM	Burke's Martial Arts	AMEX	\$149.00	APPROVAL
122396398	ILKBCranston	8/18/2013 3:08:04 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
107566442	ILKBCranston	4/18/2013 3:08:50 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
103841082	ILKBCranston	3/18/2013 3:10:15 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL

Quick Reference

Heartland Payment
90 Nassau S
Princeton, NJ 08540

1:13:43 PM 6/7/2014

Highrise: Latest Activity x Autoresponder - X - Web x Followup Message Editor x Facebook x Xc - Website - Kurt Kling x QuickBooks x Payments Processin

Heartland Payment Systems Inc. [US] https://reports.secureexchange.net/admin/home.aspx

Do you want Google Chrome to save your password? Save password Never for this site

Logged In As: ilc
FC ONLINE MARTIAL ARTS INC

Heartland CONNECT™

Home | [Recurring Billing](#) | [Billing Report](#)

Show Filters?

Billings Found: 36
Displaying Results: 26 through 36

[Download to Tab-Delimited File](#)

Ref #	Contract ID	Transaction Date	Customer	Payment Type	Amount	Result
111266871	ILKBCranston	5/18/2013 3:08:46 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
114902938	ILKBCranston	6/18/2013 3:09:20 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
118548141	ILKBCranston	7/18/2013 3:07:48 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
122396398	ILKBCranston	8/18/2013 3:08:04 AM	Burke's Martial Arts	VISA	\$149.00	APPROVAL
130299249	ILKBCranston	10/18/2013 3:07:57 AM	Burke's Martial Arts	AMEX	\$149.00	APPROVAL
134444497	ILKBCranston	11/18/2013 3:08:41 AM	Burke's Martial Arts	AMEX	\$149.00	APPROVAL
138434864	ILKBCranston	12/18/2013 3:07:39 AM	Burke's Martial Arts	AMEX	\$149.00	APPROVAL
142498565	ILKBCranston	1/18/2014 3:07:41 AM	Burke's Martial Arts	AMEX	\$149.00	APPROVAL
146768369	ILKBCranston	2/18/2014 3:08:27 AM	Burke's Martial Arts	AMEX	\$149.00	APPROVAL
150993320	ILKBCranston	3/18/2014 3:09:03 AM	Burke's Martial Arts	AMEX	\$149.00	APPROVAL
156210707	ILKBCranston	4/18/2014 3:07:22 AM	Burke's Martial Arts	AMEX	\$149.00	APPROVAL

Heartland Payment
90 Nassau St
Princeton, NJ 08540

Quick Reference

EXHIBIT L

IloVe2KickBox.com Whois Record

- *Whois Record*
- *Site Profile*
- *Registration*
- *Server Stats*
- *For Sale*
-

Whois Record

Reverse Whois:

"Burke's Martial Arts" is associated with about 4 other domains

Registrar History:

1 registrar

NS History:

1 change on 2 unique name servers over 0 year.

IP History:

3 changes on 4 unique IP addresses over 0 years.

Whois History:

3 records have been archived since 2014-04-11 .

Reverse IP:

90 other sites hosted on this server.



Join DomainTools to start monitoring this domain name



Preview the complete Domain Report for ilove2kickbox.com

Domain Name: ILOVE2KICKBOX.COM

Registrar URL: <http://www.godaddy.com>

Registrant Name: Jake Burke

Registrant Organization: Burke's Martial Arts

Name Server: NS19.DOMAINCONTROL.COM

Name Server: NS20.DOMAINCONTROL.COM

DNSSEC: unsigned

You must [Register](#) or [Log in](#) to view the Whois record for this domain name

[Backorder this domain](#) or [Hire a domain broker](#)